

RIA SCHUMACHER,
Individually And on Behalf Of
All Others,

Case No. 2:16-cv-04078-NKL

**PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES INCURRED SUBSEQUENT TO
THE PARTIES’ SETTLEMENT AGREEMENT**

COMES NOW, Plaintiff Ria Schumacher (“Named Plaintiff”), appointed Class Representative of the conditional Settlement Class, by and through appointed Class Counsel, and for her Motion for Attorneys’ Fees incurred subsequent to the parties reaching a settlement agreement, states as follows:

1. On May 12, 2016, the parties reached a Settlement Agreement following a daylong mediation with the late Richard Sher. (See Doc. 82-1 p. 2).
2. Implied in the parties' Settlement Agreement was a covenant of good faith and fair dealing.
3. The Defendant filed a Motion to Dismiss on July 15, 2016, in an effort to escape their obligations under the Settlement Agreement. (Doc. 15).
4. The Court denied the Defendant's Motion to Dismiss on November 29, 2016. (Doc. 61) as well as their subsequent Motion for Interlocutory Order on February 21, 2017. (Doc. 69), and their Motion for Reconsideration on April 24, 2017. (Doc. 70).

5. The Defendant appealed the Court's Order to the Eighth Circuit Court of Appeals on November 27, 2017.
6. The Eighth Circuit Court of Appeals remanded the matter back to this Court on January 8, 2019. (Doc. 93)
7. The parties submitted supplemental briefing addressing the Defendant's Motion to Dismiss and also briefed Class Counsel's Motion for Reconsideration (Docs. 96, 97, 103, 104, 106).
8. This Court denied the Defendant's Motion to Dismiss in its entirety on September 3, 2019. (Doc. 109)
9. On September 18, 2019, Class Counsel provided the Court with a proposed order for the settlement to be finalized and requested that this Court allow Class Counsel to seek attorneys' fees related to litigating the Defendant's Motion to Dismiss filed subsequent to the settlement agreement.
10. On September 19, 2019 this Court finalized the settlement and ordered Class Counsel to file a motion for attorney's fees and costs within 30 days of the Order. (Doc.111 at p.6)
11. Defendant's attempts to evade the terms of the Settlement Agreement have been done in bad faith.
12. Class Counsel seeks an award of attorneys' fees totaling \$145,665.00 for work performed in response to Defendant's bad faith filings and attempts to evade the terms of the Parties' Settlement Agreement.
13. Counsel's Motion for fees is supported by Counsel's time records and as set forth in the Memorandum in Support.

WHEREFORE, and for the reasons set forth above and in the Memorandum in Support of Plaintiff's Motion for Attorneys' Fees Class Counsel respectfully requests the Court make a determination that the Defendant acted in bad faith and issue an Order directing the Defendant to pay Class Counsel Attorneys' Fees in an amount of \$145,665.00 and further relief as this Court deems just and appropriate.

Respectfully submitted,

By: /s/ Jayson A. Watkins

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

/s/ Jayson A. Watkins
Attorney for Plaintiff